

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

- against -

Case No. 08-cv-00850 RJA-HKS

NATIVE WHOLESALE SUPPLY COMPANY,

Defendant.

I, BEVERLEY S. BRAUN, state and verify under penalty of perjury and pursuant to the provisions of 28 U.S.C. §1746 that the following is true and correct:

1. I am an associate with the law firm of Jaeckle Fleischmann & Mugel, LLP, local counsel for Native Wholesale Supply Company (“NWS”). I make this declaration in response to the Plaintiff's submission of the Affidavit of Larry Wayne Durant, CPA, with exhibits annexed thereto, in support of the Plaintiff's claim for damages. *See* Docket Number 74.

2. As a cursory matter, Defendant does not object to the Plaintiff's submission to the extent that there does not appear to be any mathematical error in those documents submitted by the Plaintiff.

3. Defendant, however, does object to the extent that Plaintiff relies upon documents which are referenced in Plaintiff's submissions, but were not produced in connection thereof. Indeed, other than the assessment annexed as Exhibit A to the Durant Affidavit,

Plaintiff has not produced any of the prior assessments in support of its claim and has only provided this Court with a summary document.

DATED: Buffalo, New York
November 16, 2011

/s/ *Beverley S. Braun*
BEVERLEY S. BRAUN

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